



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-836]

Glycine from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of the Antidumping Duty Administrative Review and Notice of Amended Final Results; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On September 7, 2018, the Court of International Trade (CIT or Court) sustained the final results of remand redetermination pertaining to the administrative review of the antidumping duty order on glycine from the People's Republic of China (China), covering the period of March 1, 2013, through February 28, 2014. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with Commerce's final results of the administrative review and that Commerce is amending the final results with respect to the dumping margin assigned to the China-wide entity.

DATES: Applicable [September 17, 2018].

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3931 or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

In the underlying 2013/2014 administrative review, Commerce rescinded its review with respect to Evonik Rexim (Nanning) Pharmaceutical Co., Ltd., (Evonik), finding Evonik's sales of subject merchandise to be not *bona fide*.¹ Accordingly, Commerce determined that Evonik's entries during the period of review would be subject to the rate for the China-wide entity in effect at the time of entry, which at that point in time was 453.79 percent.² This rate was established as the China-wide rate in *Final Results 12-13*.³ The rate of 453.79 percent was originally calculated in *Final Results 10-11* for respondent Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong).⁴ Baoding Mantong challenged that rate in *Baoding Mantong Fine Chemistry Co., Ltd. v. United States*, Consol. Ct. No. 12-00362. In that separate proceeding, this Court twice remanded the calculation of the rate to Commerce, sustaining Commerce's second remand redetermination, which reduced Baoding Mantong's calculated margin to 0.00 percent for the *Final Results 10-11*.⁵

Because *Final Results 10-11* was under judicial review at the commencement of its action before the Court, Evonik challenged Commerce's application of the rate of 453.79 percent to the China-wide entity⁶ in its action on *Final Results 13-14*. The Court severed and stayed that

¹ See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 62,027 (October 15, 2015) (*Final Results 13-14*) and accompanying Issues and Decision Memorandum (Issues and Decision Memorandum) at Comment 5.

² See *Final Results 13-14* at 62,028.

³ See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 Fed. Reg. 64,746, 64,748 (October 31, 2014) (*Final Results 12-13*).

⁴ See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 Fed. Reg. 64,100, 64,101 (October 18, 2012) (*Final Results 10-11*).

⁵ See *Baoding Mantong Fine Chemistry Co. Ltd.*, Slip. Op. 17-169, 279 F. Supp. 3d 1321 (Ct. Int'l Trade Dec. 20, 2017) (*Baoding Mantong*). In an earlier decision, *Baoding Mantong Fine Chemistry Co. Ltd.*, 41 CIT ___, 222 F. Supp. 3d 1231 (Ct. Int'l Trade 2017), the Court sustained an initial revision by Commerce of Baoding Mantong's rate to 64.97 percent.

⁶ See Issues and Decision Memorandum at Comment 6.

claim from Consol. Ct. No. 15-00296,⁷ pending the disposition of the challenge in *Baoding Mantong*.

In light of the final judgment issued in *Baoding Mantong*, the Court granted Commerce's motion for a voluntary remand to reevaluate its application of the China-wide entity rate to Evonik in *Final Results 13-14*. In the Final Results of Redetermination, Commerce selected as the China-wide rate for the 2013/2014 review the China-wide rate stemming from the underlying less-than-fair-value investigation.⁸ This rate, set at 155.89 percent, had been in effect prior to the China-wide rate being set at 453.79 percent in *Final Results 12-13*. On September 7, 2018, the Court sustained the Final Results of Redetermination.⁹

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 7, 2018, final judgment sustaining the Final Results of Redetermination constitutes a final decision of the Court that is not in harmony with *Final Results 13-14*. This notice is published in fulfillment of the *Timken* publication requirements. Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

⁷ See Consol. Ct. No. 15-296 ECF Docket No. 70, and Ct. No. 17-132, ECF Docket No. 1.

⁸ See "*Final Results of Redetermination Pursuant to Court Remand*," dated June 5, 2018 (Final Results of Redetermination). See also "*Antidumping Duty Order: Glycine from the People's Republic of China*," 60 Fed. Reg. 16,116, (March 29, 1995).

⁹ See *Pharm-Rx Chemical Corporation v. United States*, Court No. 17-00268, Slip Op. 18-113 (CIT September 7, 2018).

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Amended Final Results of Review

Because there is now a final court decision, Commerce is amending *Final Results 13-14* with respect to the China-wide rate previously assigned to the exporter. Based on the Final Results of Redetermination, as sustained by the CIT, the revised China-wide rate, for the period March 1, 2013, through February 28, 2014, is as follows:

Producer or Exporter	Weighted-Average Dumping Margin (percent)
China-wide Entity	155.89

In the event the Court's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce will instruct the U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise with respect to Evonik.

Cash Deposit Requirements

As the China-wide entity's cash deposit rate has not been subject to subsequent administrative reviews, Commerce will issue revised cash deposit instructions to CBP adjusting the rate for the China-wide entity to 155.89 percent, effective September 17, 2018.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: September 25, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018-21246 Filed: 9/28/2018 8:45 am; Publication Date: 10/1/2018]